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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

**Docket No.** TSCA-07-2003-0103

The Complainant, by delegation from the Administrator of the United States Environmental Protection Agency (EPA), and the Regional Administrator, EPA, Region 7, is the Director, Air, RCRA, and Toxics Division, EPA, Region 7. The Respondents are Harold Lee Biggs and Marietta Biggs, 21201 Highway K, Falcon, Missouri 65470.

Complainant's Allegations

Complainant has reason to believe that Respondents have violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart F - Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property ("Disclosure Rule"), which was promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d. Specifically, Complainant alleges:

Count I

1. Harold Lee Biggs and Marietta Biggs ("Respondents") are individual persons.
2. For all periods of time relevant to the violation alleged herein, Respondents owned a residential property located at 369 Bland, Lebanon, Missouri (the "Property").
3. The Property was constructed prior to 1978.
4. The Property is "target housing" as defined by 40 C.F.R. § 745.103.
5. On or about October 1, 2001, Respondents entered into a rental agreement (the "Contract") with James Porter for the lease of Respondents' Property for residential use.
6. As a result of the Contract described in Paragraph 5 above, Respondents became "lessors," and James Porter became a "lessee," as those terms are defined by 40 C.F.R. § 745.103.
7. James Porter subsequently moved into the Property along with his wife who was eight months pregnant.
8. Pursuant to 40 C.F.R. § 745.107(a)(1), before the lessee is obligated under any contract to lease target housing, the lessor of target housing must provide the lessee with an EPA-approved lead hazard information pamphlet.
9. Respondents did not provide an EPA-approved lead hazard information pamphlet to James Porter prior to being obligated under the Contract described in Paragraph 5 above.

10. Respondents' failure to provide an EPA-approved lead hazard information pamphlet to James Porter prior to being obligated under the Contract described in Paragraph 5 above is a violation of 40 C.F.R. § 745.107(a)(1) and Section 409 of TSCA.

### CONSENT AGREEMENT

1. For the purposes of this proceeding, Respondents admit that Complainant has jurisdiction to bring this action pursuant to the statutory and regulatory provisions cited above, and neither admit nor deny Complainant's factual allegations above.

2. Respondents waive their right to contest Complainant's allegations above, and their right to appeal the Final Order accompanying this Consent Agreement.

3. Respondents and Complainant agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

4. Respondents certify by the signing of this Consent Agreement and Final Order that to the best of Respondents' knowledge, they are presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart F - Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property ("Disclosure Rule").

5. Respondents consent to the issuance of the Final Order hereinafter recited and consent to the payment of a civil penalty in the amount of Three Thousand Four Hundred Dollars (\$3,400) to be paid in four equal installments of Eight Hundred Fifty Dollars (\$850) each, pursuant to the payment scheduled contained in Paragraph 1 of the Final Order.

6. Respondents understand that their failure to timely pay any portion of the penalty stated in Paragraph 5 above may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the Treasury (currently two

percent (2%) per annum for the period January 1, 2003, through December 31, 2003) on the unpaid balance until such civil penalty and any accrued interest are paid in full. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

Final Order

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 *et seq.*, and based upon the information set forth in the Consent Agreement accompanying this Final Order, IT IS HEREBY ORDERED THAT:

1. Respondents shall pay a civil penalty of Three Thousand Four Hundred Dollars (\$3,400) to be paid in four equal installments of Eight Hundred Fifty Dollars (\$850) each. The first installment shall be due within sixty (60) days of the effective date of the Final Order; the second installment shall be due within one hundred twenty (120) days of the effective date of the Final Order; the third installment shall be due within one hundred eight (180) days of the effective date of this Final Order; and the fourth installment shall be due within two hundred forty (240) days of the effective date of this Final Order. Failure to submit any of the required payments by the respective due date will result in the entire remaining balance becoming immediately due and payable, along with any costs, handling charges, penalties, and accumulated interest. All payments shall identify the Respondents by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and remitted to:

EPA-Region 7  
c/o Mellon Bank  
P.O. Box 360748M  
Pittsburgh, Pennsylvania 15251.

2. A copy of the check must be sent simultaneously to each of the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 7  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101; and

Deanna Smith  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

3. Respondents and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

RESPONDENTS:  
HAROLD LEE BIGGS AND MARIETTA BIGGS  
FALCON, MISSOURI

Date 3-17-03

By

Harold S. Biggs  
Harold Lee Biggs

Date 3-17-03

By

Marietta Biggs  
Marietta Biggs

COMPLAINANT:  
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date 3-31-03

By

William A. Spratlin  
William A. Spratlin, Director  
Air, RCRA, and Toxics Division

Date 4/3/03

By

Becky Ingram Dolph  
Becky Ingram Dolph  
Deputy Regional Counsel

IT IS SO ORDERED. This Final Order shall become effective immediately.

Robert L. Patrick  
Robert L. Patrick  
Regional Judicial Officer

Date April 7, 2003

IN THE MATTER OF Harold Lee Biggs and Marietta Biggs, Respondent  
Docket No. TSCA-07-2003-0103

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Becky Ingram Dolph  
Deputy Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by First Class Mail Return Receipt:

Harold Lee Biggs and Marietta Biggs  
21201 Highway K  
Falcon, MO 65470

Dated: 4/7/3

Debby White for  
Kathy Robinson  
Regional Hearing Clerk

U.S. Postal Service	
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Restricted Delivery Fee (Endorsement Required)	
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Harold Le Biggs and Mariette Biggs	
TSCA-07-2003-0103	
21201 Highway K	
Falcon, MO 65470	
PS Form 3800, April 2002	
See Reverse for Instructions	

APR - 7 2003  
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